

Commonwealth of Massachusetts Regulations

****Proposed Regulations: Not currently in effect ****

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250 CMR 2.00 GENERAL PROVISIONS AND DEFINITIONS

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2.01. Authority

These regulations as promulgated herein are an exercise of the police power vested in the Board by virtue of the following General Laws: M.G.L. c. 13, §§ 45 and 46; c. 112, §§ 81D through 81T; c. 143, § 54A, St. 1970 c 707, §§ 1 through 12; c 282; c 707, §§ 13 through 15, St. 1971 c. 1099; St. 1972 c. 684; St. 1975 c. 545 and 588; St. 1979 c. 897.

2.02. Purpose

The purpose of 250 CMR 1.00 through 7.00 is to protect the public health, safety, and welfare by establishing requirements and procedures for registration of Professional Engineers and Professional Land Surveyors, prescribing standards of professional conduct to be followed by such engineers and land surveyors, and assure the proper performance of the duties of the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors.

2.03. Applicability

All persons registered under the provisions of M.G.L. c. 112 §§ 81D through 81T shall have knowledge of and comply with the provision of 250 CMR 1.00 through 7.00 and all laws governing the Practice of Engineering or Practice of Land Surveying.

Where 250 CMR 1.00 through 7.00 applies, no other agency may waive or otherwise modify its provisions except to the extent provided by law.

2.04. Definitions

For the purposes of 250 CMR 1.00 thru 7.00, the following terms shall have the specified meanings:

(1) General Definitions

“ABET” is the acronym meaning “Accreditation Board for Engineering and Technology”

“Accreditation” is the process used to evaluate a college’s engineering or technology program for compliance with minimum standards.

“Advisory Ruling” is a ruling of the Board issued under the process by which any interested person or their attorney can request an opinion by the Board.

“Application Classification” is the set of requirements for registration as an engineer or land surveyor in the Commonwealth of Massachusetts per M.G.L. c. 112, § 81J.

“Board” is the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors.

“Branch” is the discipline or area of expertise of professional practice.

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"Business Entity" is any sole proprietorship, partnership, corporation, association, limited liability company, limited liability partnership, or other organization or entity, whether for-profit or not-for-profit, which provides or offers to provide engineering or land surveying services, either exclusively or in combination with goods or other types of services.

"Certificate of Registration" means the biennial certificate issued by the Board under M.G.L. c. 112, § 81M to a person who has met the requirements to practice as a Professional Engineer or Professional Land Surveyor as set forth in M.G.L. c. 112, §§ 81D through 81T, and is prima facie evidence that the person named therein is entitled to all the rights and privileges of a Professional Engineer or Professional Land Surveyor while the certificate is in force. "Certificate of Registration" is used interchangeably with the words "License" and "Registration."

"CMR" is the acronym meaning "Code of Massachusetts Regulations"

"Comity Registration" is a process whereby out-of-state registrants/licensees are considered for registration in Massachusetts.

"Division" is the Division of Professional Licensure.

"Direct Charge and Supervision" defined in Section 4.04.

"Direct Responsibility, Checking and Supervision" cited by M.G.L. c. 112, § 81R(d) is synonymous with Direct Charge and Supervision.

"Direct Supervision" is synonymous with Direct Charge and Supervision.

"Equivalency Appraisal" is the process of evaluating education from non-ABET approved college programs, such as a foreign degree or non-ABET engineering degrees, for compliance with the Board's educational requirements.

"Fixed-Works" are those structures and their attachments which are generally considered to be fixed to the earth's surface.

"Immediate and Responsible Direction" as cited by M.G.L. c. 112, § 81P(c) is a component of Direct Charge and Supervision as described in Section 4.04.

"Instrument of Service" is any document or medium memorializing the professional service or creative work of engineering or land surveying involving the special education, training, and experience of the nature required for registration as a Professional Engineer or Professional Land Surveyor.

"Jurisdiction" is a state or territory of the United States that licenses engineers or licenses land surveyors via NCEES examination.

"License" see definition of "Certificate of Registration."

"Licensed Branch" is the discipline identified on one's registration and listed on the Board's registration roster.

"M.G.L." is an acronym for Massachusetts General Law(s).

"NCEES" is the acronym for "National Council of Examiners for Engineering and Surveying."

"NCEES Record" is a centralized file certified by the NCEES of an individual's qualifications related to registration matters, which can be electronically transmitted to Jurisdictions where Comity Registration is sought.

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“Order to Show Cause” is a written mandate that a party respond to formal charges and give reasons, legal and/or factual (show cause), why a particular action should not be taken under 801 CMR 1.01.

“Reference Questionnaire” is the form established by the Board used to substantiate an applicant’s Work Experience by persons familiar with the applicant’s work and character.

“Registrant” is a person who has, to the satisfaction of the Board, met the minimum requirements to practice engineering or land surveying in the Commonwealth of Massachusetts, who has been added to the Commonwealth’s roster of Professional Engineers or Professional Land Surveyors and who holds a current Certificate of Registration. Registrant is used interchangeably with the word “Licensee.”

“Registrant-In-Charge” is the Registrant required for a Business Entity per 250 CMR 4.05 and M.G.L. c. 112, § 81R(f).

“Resident” is one who maintains his/her legal domicile in the Commonwealth of Massachusetts at the date that application is made for registration.

“Responsible Charge” is experience of a grade and character associated with significant engineering or land surveying endeavors that demonstrates the necessary skills and judgment to perform work of a professional nature and direct others in such endeavors, including the application of standards and applicable laws.

“Signature” is either the traditional handwritten Signature which is visible on the face of the document or an encrypted digital Signature that complies with these regulations.

“Temporary Permit” is the written permission granted to practice in the Commonwealth of Massachusetts on a temporary basis.

“Work Experience” is one of the statutory requirements for registration imposed by the Board. It must meet certain minimum standards, regarding duration, quality, supervision, and Responsible Charge per 250 CMR 3.00 “The Registration Process”.

“Work Product” see Instrument of Service.

(2) Engineering Definitions

“EIT” is the acronym for “Engineer-In-Training”

“Engineer-in-Training” means a person who has qualified for, taken, and passed the NCEES FE Exam examination and who is certified by the Board as meeting the requirements of M.G.L. c. 112, § 81J(3)(a) or (b).

“FE Exam” (also known as the Fundamentals of Engineering exam) is the first of two NCEES exams used to test one’s basic qualifications for engineering registration, usually taken during or shortly after college.

“PE” is the acronym for “Professional Engineer.”

“PE Exam” (also known as the Principles and Practice of Engineering exam) is the second of two NCEES exams used to test one’s qualifications for engineering registration and is taken after the completion of one’s minimum required formal education and after a minimum number of years of experience. This exam is Branch specific and tests one’s knowledge based upon both education and experience.

“Practice of Engineering” see M.G.L. c. 112, § 81D. Definitions.

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“Professional Engineer” means a person who has been duly registered as an Engineer by the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors and who holds a current License to practice.

(3) Land Surveying Definitions

“Boundary” is a legal demarcation between real property title or rights.

“Control” is the network of points and lines that form the framework for determining the relationship between indirectly observed points comprising the basis of a survey.

“Evidence” consists of almost any object, action, or verbal statement, either oral or written, used to define/retrace a Boundary.

“FS Exam” (also known as the Fundamentals of Surveying exam) is the first of two NCEES exams used to test one’s qualifications for surveying registration, usually taken during or shortly after college.

“PLS” is the acronym for “Professional Land Surveyor”

“Practice of Land Surveying” see M.G.L. c. 112, § 81D. Definitions.

“Professional Land Surveyor” shall mean a person who has been duly registered as a Land Surveyor by the Massachusetts Board of Registration for Professional Engineers and Professional Land Surveyors and who holds a current License to practice.

“PS Exam” (also known as the Principles and Practice of Surveying exam) is the second of two exams used to test one’s qualifications for surveying registration, comprised of an NCEES exam and a Board prepared jurisprudence exam, and is taken after the completion of one’s minimum required formal education and after a minimum number of years of experience.

“Jurisprudence Exam” is the portion of the Principles and Practice examination prepared and corrected by the Board that tests a land surveying applicant’s knowledge of Massachusetts specific laws, rules and regulations.

“Laws of Evidence” is a collection of the general rules and principles regulating the admissibility, relevancy, weight and sufficiency of Evidence in legal proceedings as established either by statutory law or by case law, as they pertain to the practice of land surveying. In the practice of land surveying, “Rules of Evidence” and “Boundary law” are often used synonymously with “Laws of Evidence.”

“Operative Document” is the source document that has authority under the Laws of Evidence to establish a line, e.g., senior deed, court decision, legislative act.

“Original Lines” are lines created by the Operative Document affecting real property.

“Regulatory Lines” are lines defined by governmental action affecting real property rights.

“SIT” is the acronym for “Surveyor-In-Training”

“Surveyor-in-Training”, as used in these regulations, means a person who has qualified for, taken and passed, the NCEES FE Exam, and is certified by the Board as meeting the requirements of the M.G.L. c. 112, §§ 81J(3)(c) or (d).

2.05. Severability

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If any of the regulations of 250 CMR or any part thereof as promulgated under the provisions of the applicable General Laws governing the Massachusetts Board of Registration of Professional Engineers and Professional Land Surveyors are found by the courts to be invalid for any reason, it is the intention of the Board that all of the remaining regulations shall continue in full force and effect. Each regulation, and/or any portion thereof, is declared to be severable.

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250 CMR 3.00 THE REGISTRATION PROCESS

- 3.01. Registration Requirements
- 3.02. Application Form
- 3.03. Application Review and Evaluation
- 3.04. Education and Experience Requirements
- 3.05. Experience Evaluation
- 3.06. Examinations and Interviews
- 3.07. Withdrawn, Rejected, Lapsed and Denied Applications
- 3.08. Additional Branch Registrations
- 3.09. Temporary Permits
- 3.10. EIT and SIT Certifications

3.01. Registration Requirements

- (1) Applicants for registration are charged with having knowledge of M.G.L. c.112, § 81D through §81T and 250 CMR.
- (2) The registration process is based upon different Application Classifications, each of which has specific education and Work Experience requirements. The classification details are summarized in Tables I and II in Section 3.04 (4).
- (3) Each person applying to be registered in the Commonwealth as a Professional Engineer or Professional Land Surveyor must first have taken and passed the NCEES sanctioned FE Exam or the NCEES sanctioned FS Exam, with the exception of applicants under classification (e) as described in Tables I and II in Section 3.04 (4).
- (4) In the event that an individual does not pass the FE or FS Exams, the exam may be retaken as allowed by NCEES and the Board, upon notification of the Board and payment of the required fees.
- (5) The Board will notify individuals of their exam results. The Board will issue Engineer-In-Training certificates or Surveyor-In-Training certificates to those individuals that are in compliance with Section 3.10.
- (6) Before submitting an application for registration, the applicant must obtain the Work Experience and education required for a given Application Classification. Work Experience obtained after the date the application was submitted is not included in determination of experience.
- (7) Once the Board has reviewed the applicant's education, Work Experience, character and experience references, college transcripts and documentation, the Board may schedule the engineering applicant for an interview; and the Board shall schedule all land surveying applicants for the mandatory oral exam. Once the Board has determined that all applicable statutory requirements have been met, the applicant will be scheduled to sit for the applicable written examinations.
- (8) An application found to involve fraud, false statement(s) or misrepresentation(s) will be denied and action will be taken as prescribed in 250 CMR 5.00.
- (9) An applicant shall be registered only after completing the following:
 - (a) meeting all the requirements of law,

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- (b) passing the required examinations,
- (c) receiving notification from the Board and
- (d) paying the registration fee.

Upon completion, an applicant will be issued a License to practice as a Professional Engineer or a Professional Land Surveyor and is then authorized to use the title Professional Engineer or Professional Land Surveyor in compliance with these regulations.

- (10) Applicants for Comity Registration as a Professional Engineer must hold a current engineering license in another state or US Jurisdiction and must submit a current NCEES Record, or Board approved equivalent, along with the application. Comity applicants must meet all Massachusetts requirements for at least one Application Classification.
- (11) Comity applicants for registration as a Professional Land Surveyor must hold a current land surveying license in another state or US Jurisdiction and must pass the Massachusetts specific jurisprudence exam. Applicants for Comity Registration as a Professional Land Surveyor are required to meet all Massachusetts requirements for at least one Application Classification and must sit for an oral exam.

3.02. Application Form

- (1) An application for registration must be submitted using only current Board-approved forms obtained from the Board.
- (2) An application will be rejected if it is submitted on an out-of-date form, is incomplete, or does not comply with the documentation requirements.
- (3) A completed application form must be submitted in accordance with the application form instructions along with the required fees and supporting documentation.
- (4) An applicant for registration as a Professional Engineer must submit at least five references, three of which must be from Professional Engineers familiar with the work of the applicant, and one of which must be the applicant's current supervisor.
- (5) An applicant for registration as a Professional Land Surveyor must submit at least five references, three of which must be from Professional Land Surveyors familiar with the work of the applicant, and one of which must be the applicant's current supervisor.
- (6) Collectively, the references shall address the applicant's entire period of qualifying Work Experience. A Board member or a member of the applicant's family may be a reference only when the reference has been in direct charge of an applicant's Work Experience.

3.03. Application Review and Evaluation

M.G.L. c.112 obligates the Board to review and consider an applicant's education, performance on required examinations, relevant Work Experience, and references. The Board cannot process applications if an applicant is unable to submit sufficient supporting Evidence related to the foregoing.

- (1) Each application must be reviewed and approved by at least two members of the Board. A denial of an application requires a majority vote of the Board.
- (2) If the required Reference Questionnaires are not received by the Board within three months the applicant will be so advised. If not received within six months, the application will be rejected.

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- (3) If any deficiency in an application, including supplemental information requested by the Board, is not remedied within three months after notice of such deficiency is mailed to the applicant, the Board will act on the basis of the available information.
- (4) Final Board action is based on the documented qualifications of the applicant.
- (5) An application indicating that the applicant has been practicing engineering or surveying in violation of the law will be investigated and prosecuted if warranted.
- (6) All application materials are maintained in compliance with the public records law. Samples of work included with application are destroyed after action by the Board.
- (7) Applications that remain dormant for a period of three years or more will automatically lapse.

3.04. Education and Experience Requirements

- (1) To determine the amount of education and Work Experience required for registration as a Professional Engineer refer to Table I. To determine the amount of education and Work Experience required for registration as a Professional Land Surveyor refer to Table II.
- (2) Table I refers to program Accreditation established by the Accreditation Board for Engineering and Technology (ABET). An applicant holding a degree that is not from an ABET accredited engineering program must obtain an Equivalency Appraisal of his/her specific educational transcript of the unaccredited educational program of four years or more. This appraisal will determine whether the applicant's education is acceptable to the Board. The Equivalency Appraisal must be done by a Board-approved agency.
- (3) An ABET accredited graduate engineering program may be substituted for an ABET accredited undergraduate program for the purpose of EIT certification, SIT certification and/or Registration.
- (4) In interpreting the experience requirements in Tables I and II, the following may apply:
 - (a) A one year credit toward Work Experience requirement may be allowed for each postgraduate study program terminated successfully provided that the postgraduate degree is related to the applicant's engineering or land surveying undergraduate degree, whichever is applicable, or that the postgraduate degree is an ABET accredited degree and also provided that neither educational option will reduce the qualifying Work Experience below three years.
 - (b) Qualifying Work Experience for teaching engineering or land surveying will be based upon a careful examination of the curriculums taught, the research associated therewith, published papers, the professional level of that experience and the degree of responsibility carried by the applicant.
 - (c) Credit toward required years of acceptable engineering or land surveying Work Experience may be allowed, up to three years, for Board-approved undergraduate education for classifications (d) and (e). Credit toward acceptable land surveying Work Experience for applicants requiring six years may be allowed, up to two years, for Board-approved undergraduate education for classifications (d) and (e).

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3.04 (4) Table I Engineering Application Requirements

Application Classification		Education Requirements	Engineering Experience Requirements*	Responsible Charge Requirements	FE Exam Req'd	PE Exam Req'd	Oral Exam Req'd	Reference
(a)		A certificate of license/registration to practice Engineering issued by another Jurisdiction in addition to meeting all the requirements of one of the following classifications:			Yes (except e)	Yes	No	M.G.L. c.112, § 81J (1)(a)
(b)	(1)	A Bachelor of Science degree in engineering from an ABET accredited program or a program approved by the Massachusetts Legislature together with a Master's Degree in Engineering by a school in the US whose basic engineering program is ABET accredited.	3 years	—	Yes	Yes	No	M.G.L. c.112, § 81J (1)(b)
	(2)	A Bachelor of Science degree in engineering from an ABET accredited program.	4 years	—	Yes	Yes	No	M.G.L. c.112, § 81J (1)(b)
	(3)	A Bachelor of Science degree in engineering from a non-ABET accredited program granted by an institution authorized to grant such degree by the Massachusetts Legislature.	4 years	—	Yes	Yes	No	M.G.L. c.112, § 81J (1)(b)
	(4)	A Bachelor of Science degree in engineering from a non-ABET accredited program or related engineering science program such as a technology degree, foreign degree, physics degree, chemistry degree, etc. together with a degree from an ABET accredited advanced engineering program.	4 years	—	Yes	Yes	No	M.G.L. c.112, § 81J (1)(b)
	(5)	A foreign degree or non-ABET degree in engineering of four years or more and whose education has received an Equivalency Appraisal per section 3.04 (2).	4 years	—	Yes	Yes	No	M.G.L. c.112, § 81J (1)(b)
(c)		A Bachelor of Science engineering technology degree or any non-ABET accredited program in engineering or related engineering science such as a foreign degree, physics degree, chemistry degree, etc. (foreign degree holders are also required to submit evidence that the foreign degree is equivalent to a regionally accredited Bachelor of Science degree)	8 years	—	Yes	Yes	No	M.G.L. c.112, § 81J(1)(c)
(d)		No specific education requirement, however undergraduate study in a Board-approved engineering curriculum may be considered as engineering Work Experience on an equivalent full-time basis up to a maximum of 3 years.	12 years	5 years	Yes	Yes	May	M.G.L. c.112, § 81J(1)(d) M.G.L. c.112, § 81J(1)(f)
(e)		No specific education requirement, however undergraduate study in a Board-approved engineering curriculum may be considered as engineering Work Experience on an equivalent full-time basis up to a maximum of 3 years.	20 years	10 years	No	Yes	Yes	M.G.L. c.112, § 81J(1)(e) M.G.L. c.112, § 81J(1)(f)

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* A one-year credit may be granted for each qualifying advanced engineering degree, provided qualifying Work Experience is not less than three years.

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3.04 (4) Table II Land Surveying Application Requirements

Application Classification		Education Requirements	Land Survey Experience Requirements*	Responsible Charge Requirements	FS Exam Req'd	PS Exam Req'd	JP Exam Req'd	Oral Exam Req'd	Reference
(a)		A certificate of license/registration to practice Land Surveying issued by another Jurisdiction in addition to meeting all the requirements of one of the following classifications:			Yes (except e)	Yes	Yes	Yes	M.G.L. c.112, § 81J (2)(d)
(b)	(1)	A Bachelor of Science Degree in Land Surveying.	4 years	3 years	Yes	Yes	Yes	Yes	M.G.L. c.112, § 81J (2)(a)
	(2)	A Bachelor of Science Degree in Civil Engineering including or in addition to at least 15 credit hours of Board-approved courses in land surveying.	4 years	3 years	Yes	Yes	Yes	Yes	M.G.L. c.112, § 81J (2)(a)
	(3)	A foreign degree in Land Surveying or Civil Engineering of four years or more that has been determined to be equivalent to (1) or (2) above.	4 years	3 years	Yes	Yes	Yes	Yes	M.G.L. c.112, § 81J (2)(a)
(c)		Two or more years of formal education comprised of at least 60 semester credit hours of which at least 15 credit hours are Board-approved land surveying courses and 15 credit hours of Board-approved higher mathematics and applied science courses.	6 years	4 Years	Yes	Yes	Yes	Yes	M.G.L. c.112, 81J(2)(b)
(d)		No education requirement, however undergraduate study in a Board-approved surveying curriculum may be considered as surveying Work Experience on an equivalent full-time basis up to a maximum of 2 years.	12 years	6 years	Yes	Yes	Yes	Yes	M.G.L. c.112, § 81J(2)(c) M.G.L. C112, § 81J(2)(e)
(e)		No education requirement, however undergraduate study in a Board-approved surveying curriculum may be considered as surveying Work Experience on an equivalent full-time basis up to a maximum of 3 years.	20 years	10 years	No	Yes	Yes	Yes	M.G.L. c.112, § 81J(2)(f) M.G.L. c.112, § 81J(2)(e)

* A one-year credit may be granted for each qualifying advanced surveying degree, provided qualifying Work Experience is not less than three years.

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3.05. Experience Evaluation

- (1) Acceptable Work Experience must be in work of a professional grade and character that indicates to the Board that the applicant is competent to practice engineering or land surveying.
- (2) Acceptable Work Experience of a professional grade is evaluated on the basis of:
 - (a) Statutory Length as of date of application;
 - (b) Professional Level;
 - (c) Degree of Responsibility;
 - (d) Application of Technical Knowledge;
 - (e) Exercise of Judgment.
- (3) Engineering work or land surveying work performed during a period of full-time study at an educational institution is considered part of the educational program, and is not acceptable Work Experience.
- (4) Engineering work periods or land surveying work periods of up to six months during, or incidental to, undergraduate education (such as a cooperative experience or an internship) are considered part of the educational program and are not acceptable as Work Experience.
- (5) Acceptable Work Experience for graduates of a Board-approved engineering curriculums leading to the degree of Bachelor of Science in Engineering or Engineering Technology in an “evening” or “part-time” program may accrue during enrollment in such a program.
- (6) Land surveying experience is not acceptable professional engineering Work Experience except that part of the practice of land surveying that is incidental to civil engineering.
- (7) Periods of Work Experience claimed on an application for registration in one Branch cannot be used again on another application for a different Branch, except for that Work Experience that may be common to both Branches.
- (8) Acceptable Work Experience for registration as an engineer or land surveyor must be accrued during the lawful Practice of Engineering or Practice of Land Surveying respectively except that teaching at a college or university offering a Board-approved engineering or surveying curriculum may be considered as acceptable Work Experience.
- (9) Acceptable Work Experience for registration for an applicant under classification (e) (20 year classification) shall in addition to meeting the requirements of 3.05 (2), have been:
 - (a) In Responsible Charge of major engineering or land surveying work for the most recent ten years and,
 - (b) In work of a grade and character that demonstrates competence to practice engineering or land surveying.
- (10) Whether or not construction related experience is acceptable engineering experience depends upon the nature of the work performed as revealed by close examination of the details, professional level and the degree of responsibility carried by the applicant.

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- (11) The execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the Practice of Engineering.
- (12) At least fifty percent (50%) of an applicant's engineering Work Experience must have been completed in the United States or its territories or involve the application of technical codes and professional standards commonly used in the United States. In determining whether an applicant's work involved the application of United States codes and professional standards, one of the factors the Board will consider is whether the work was performed under the Direct Supervision of a professional engineer licensed within the United States or one of its territories.
- (13) Acceptable Work Experience for land surveying must have been under the Direct Supervision of a professional land surveyor licensed within the United States or one of its territories.

3.06. Examinations and Interviews

- (1) The FE, FS, PE, and PS Exams are prepared by NCEES, with the exception of the state specific portion of the PS Exam which is prepared by the Board.
- (2) The written portions of the engineering and surveying examinations are held at dates and times set by NCEES. Applicants will be notified of the examination date, time, and site.
- (3) The FE and the FS Exams are examinations prepared by NCEES. The exams are graded and scored by NCEES and the passing score is approved by the Board.
- (4) Admittance to the PE or PS Exams will not be allowed until the respective FE or FS Exam has been passed except under Application Classification (e), and all other registration requirements have been met.
- (5) The PE Exam is the Branch specific examination(s) prepared by NCEES. When the examination is comprised of multiple components, all components must be passed to become registered. Applicants seeking to become registered in a fundamental Branch of engineering recognized by the Board for which an NCEES exam is not offered may be allowed to take an NCEES examination in a related Branch as approved by the Board. The exams are graded and scored by NCEES and the passing score approved by the Board.
- (6) The PS Exam consists of two components. The first component is the uniform PS Exam prepared and graded by NCEES. The second component of the PS Exam is the Massachusetts-specific jurisprudence prepared and graded by the Board. The passing grade for both components shall be approved by the Board. Applicants are required to take and pass both components to become registered as a Professional Land Surveyor.
- (7) If an applicant takes and passes only part of a multiple component examination, the applicant will have five years to pass the remaining components. Thereafter, the entire exam must be retaken.
- (8) An applicant who failed the PE or PS Exam or one of its components once may take it a second time upon paying the required fee.

An applicant who desires to retake the failed exam must make such request in writing after meeting the requirements noted below:

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- (a) wait one year before retaking the exam;
- (b) submit evidence satisfactory to the Board that the applicant has completed an educational program or obtained additional experience sufficient to improve their chances of passing the exam following the date of the most recent failed exam;
- (c) sit for an oral exam if required by the Board; and
- (d) satisfactorily update their application materials to reflect any changes since the date the original application was submitted.

Increasing amounts of education/experience may be required following each succeeding failed exam. An applicant with multiple failures may be notified by the Board that the application for registration will be denied if the applicant fails the exam one more time.

- (9) The Board may waive the requirement of an NCEES written examination if the applicant had previously passed a written examination offered by one of NCEES's member Boards that is considered equivalent to the NCEES exam required for registration.
- (10) Prior to being admitted to the PE Exam, the Board may require an oral interview following its evaluation of the application materials.
- (11) Prior to being admitted to the PS Exam, all applicants must pass an oral examination administered by the Board. In determining whether an applicant shall be permitted to take the PS Exam, the Board shall consider the applicant's Work Experience, education and qualifications, including but not limited to the following:
 - (a) The applicant's experience in performing Boundary surveys;
 - (b) The applicant's understanding of the Laws of Evidence as they pertain to Boundary surveys; and
 - (c) The applicant's ability to perform surveys that would conform to the requirements of 250 CMR 6.00: *Land Surveying Procedures and Standards*.

An applicant who fails the oral examination must wait six months before sitting for another oral examination.

- (12) When an applicant scheduled for an oral examination or interview fails to accept an appointment after two offered appointments, the application will lapse.
- (13) When an applicant fails to take a written examination within 36 months after being admitted to the examination, the application will lapse.
- (14) When an applicant fails to pass on the first examination attempt and does not take the examination a second time within 36 months of the failed examination date, the application will lapse.
- (15) 250 CMR 3.06 (12) thru (14) do not apply to applicants actively serving in the United States armed forces.
- (16) When an applicant passes the Principles and Practices exam but does not pay the initial License fee within three months of the notification that the examination was passed, the application will lapse.
- (17) An applicant for registration as a Professional Engineer under classification (e) of Section 3.04 (4) Table I may be registered provided:

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- (a) The applicant demonstrates to the Board's satisfaction, through documentation and personal interview, that the applicant has 20 years or more of acceptable qualifying experience in engineering work, as outlined in 250 CMR 3.05 (8); and
 - (b) The applicant passes the PE Exam.
- (18) An applicant for registration as a Professional Land Surveyor under classification (e) of Section 3.04 (4) Table II may be registered provided:
- (a) The applicant demonstrates through documentation and personal interview, to the Board's satisfaction, that the applicant has 20 years or more of acceptable qualifying experience in land surveying, as outlined in 250 CMR. 3.05 (8);
 - (b) The applicant passes the oral examination required in 250 CMR 3.06 (11); and
 - (c) The applicant passes the two-part PS Exam.

3.07. Withdrawn, Rejected, Lapsed, and Denied Applications

(1) Withdrawn Applications

- (a) To re-open a withdrawn application, an applicant shall submit a written request to the Board. Such request shall include at a minimum a statement of the reasons the applicant seeks to re-open the previously withdrawn application and associated documentation and documentation sufficient to update any part of the withdrawn application that is now out of date.
- (b) When a request to re-open a withdrawn application is granted the Board may require the applicant to submit a new application with updated information. When a new application is required, any section on the new application that is unchanged from the withdrawn application may indicate "no change from [insert date of withdrawn application]"
- (c) Re-opened applications will be considered in light of the current requirements for registration.

(2) Rejected Applications

When an application has been rejected, an applicant desiring to reapply will be required to submit the reasons for reconsideration accompanied by a new application along with all the supporting documentation. The Board is under no obligation to reconsider rejected applications.

(3) Lapsed Applications

- (a) To re-open a lapsed application, an applicant shall submit a written request to the Board. Such request shall include at a minimum a statement of the reasons the applicant seeks to re-open the lapsed application and associated documentation and documentation sufficient to update any part of the lapsed application that is now out of date.
- (b) When a request to re-open a lapsed application is granted the Board may require the applicant to submit a new application and appropriate fees.
- (c) Re-opened applications will be considered in light of the current requirements for registration.

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****Proposed Regulations: Not currently in effect ****

(4) Denied Applications

When the Board finds that an applicant is not qualified for registration, the application will be denied.

3.08. Additional Branch Registrations

If a Registrant wishes to be registered by the Board in an additional fundamental Branch, the Registrant will be required to demonstrate compliance with the current registration requirements for that Branch by submitting the appropriate application and passing the appropriate NCEES exam(s). Upon meeting such requirements, the Board shall issue the Registrant an additional registration number associated with that Branch.

3.09. Temporary Permits

Persons legally qualified by license/registration to practice in another Jurisdiction can practice in the state of Massachusetts under the provisions of M.G.L. c. 112, § 81R(b), and (c) pursuant to the following.

- (1) A person who is not a Resident of Massachusetts and who does not have an established place of business in Massachusetts or who has become a Resident of Massachusetts within the last twelve months and who holds a current license/registration to practice in another state or Jurisdiction may apply for a Temporary Permit to practice in Massachusetts for not more than thirty consecutive calendar days annually, which permit can be used by the applicant when stamping Instruments of Service in Massachusetts. Said applicant must demonstrate compliance with the following minimum requirements:
 - (a) The applicant's qualifications must comply with the Board's current Comity Registration requirements;
 - (b) The applicant must have passed the NCEES PE or PS Exam(s);
 - (c) The applicant must be licensed/registered to practice, and be in good standing in the state or Jurisdiction where they reside or where their established place of business is located;
 - (d) Land surveying applicants must have also passed the Massachusetts oral exam and the written Massachusetts-specific Jurisprudence Exam;
 - (e) The applicant must never have been Licensed to practice in Massachusetts; and
- (2) If the applicant has submitted a complete application for registration in Massachusetts, the Temporary Permit is valid until the Board has acted on the application.
- (3) The holder of a Temporary Permit must use the state of residence or former state of residence seal to stamp Instruments of Service in Massachusetts. In such a case, the number and date of the Temporary Permit must be referenced on the document.

3.10. EIT and SIT Certifications

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The route to Registration may begin with either an Engineer-in-Training certificate or Surveyor-in-Training certificate, although such certification is not a requirement of Registration.

- (1) Engineering-in-Training certifications are available to applicants who have passed the FE Exam and who meet one of the following two qualifications:
 - (a) An applicant who meets the education requirements of 250 CMR 3.04 (4) Table I, classification (b) or
 - (b) An applicant who meets the education requirements of 250 CMR 3.04 (4) Table I, classification (c) and has a specific record of four years or more of Work Experience in engineering work of grade and character satisfactory to the Board.
- (2) Surveying-in-Training certifications are available to applicants who have passed the FS Exam and who meet one of the following two qualifications:
 - (a) An applicant who meets the education requirements of Section 3.04 (4) Table II, classification (b) and who has had in addition thereto at least two years of combined office and field experience in land surveying, with a minimum of one year in Responsible Charge under the Direct Supervision of a Professional Land Surveyor or
 - (b) An applicant who meets the education requirements of Section 3.04 (4) Table II, classification (c) and who has had in addition thereto at least four years of combined office and field experience in land surveying, with a minimum of two years in Responsible Charge under the Direct Supervision of a Professional Land Surveyor.
- (3) No person shall be eligible for an EIT certification or SIT certification who is not of good character and reputation. Individuals who have passed the respective FE or FS Exam prior to meeting the other certification requirements noted above must contact the Board's administrator for the proper filing requirements for certification.

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250 CMR 4.00 PROFESSIONAL PRACTICE

- 4.01. Scope of Practice
- 4.02. Professional Conduct
- 4.03. Professional Seal
- 4.04. Direct Charge and Supervision
- 4.05. Business Entities
- 4.06. License Renewal
- 4.07. Reinstatement of Lapsed License
- 4.08. Use of Title Engineer or Land Surveyor
- 4.09. Professional and Moral Character

4.01. Scope of Practice

All engineering work and all land surveying work is considered work of a professional nature and shall be performed in conformance with 250 CMR unless such work falls within an exemption set forth in M.G.L. c. 112, § 81R. Consistent with M.G.L. c. 112, § 81D, 250 CMR 4.00 does not apply to work performed by persons who operate, maintain or install machinery or equipment, or to persons licensed as engineers under M.G.L. c. 146.

- (1) Engineering work may be performed only by a Professional Engineer or under the Direct Charge and Supervision of a Professional Engineer as described in 250 CMR 4.04 .
- (2) Land surveying work may be performed only by Professional Land Surveyor or under the Direct Charge and Supervision of a Professional Land Surveyor as described in 250 CMR 4.04.
 - (a) A Professional Engineer qualified in the Branch of civil engineering may perform land surveying incidental to his or her engineering work relative to locating or relocating any of the Fixed-Works embraced within the practice of civil engineering, but excluding Boundary and regulatory line delineation.
 - (b) Any work that requires locating existing or proposed structures or features relative to Boundary or Regulatory Lines must be performed by a Professional Land Surveyor.
- (3) Engineering Registrants must restrict engineering practice to areas of competence based upon their education or experience qualifications.
- (4) Land Surveying Registrants must restrict land surveying practice to areas of competence based upon their education or experience qualifications.

4.02. Professional Conduct

Each Professional Engineer and Professional Land Surveyor has an ethical duty to the public, the profession, and his or her clients.

In order to protect the health, property, and welfare of the public and to establish and maintain a high standard of integrity and practice in the professions of engineering and land surveying, the following *Rules of Professional Conduct* and all other applicable provisions of 250 CMR shall be

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****Proposed Regulations: Not currently in effect ****

binding on every Professional Engineer and Professional Land Surveyor. Failure to comply with 250 CMR 1.00 et seq, including the rules of professional responsibility below, or M.G.L. c. 112, §§ 61 to 65E and §§ 81D to 81T may constitute grounds for disciplinary action against the Registrant.

(1) Responsibility

A Registrant shall hold paramount the health, property and welfare of the public in the performance of the Registrant's professional duties.

- (a) If the professional judgment of any Registrant is overruled under circumstances where the health, property or welfare of the public may be endangered, that Registrant shall notify the Registrant's employer, client or such other authority as may be appropriate.
- (b) A Registrant shall provide professional services that are truthful, based upon independent professional judgment, founded upon adequate knowledge of the issues, and based upon competence in the subject matter.
- (c) A Registrant shall approve, sign or seal only those instruments of service that conform to these regulations and commonly accepted engineering and land surveying standards.
- (d) A Registrant shall not reveal facts, data or information obtained in a professional capacity, without the prior consent of the Registrant's employer except as authorized or required by law or regulation.
- (e) A Registrant shall not permit the use of the Registrant's name or firm name nor associate in business ventures with any person or firm which the Registrant may have reason to believe is engaging in fraudulent or dishonest business or professional practices.
- (f) A Registrant shall provide the Board with any information and assistance the Board may deem necessary for the investigation/prosecution of complaints filed with the Board.
- (g) A Registrant shall provide the Board with honest and objective responses on Reference Questionnaires regarding an applicant's qualifications for registration.
- (h) A Registrant shall provide written notification to other Registrants in the event of substantial disagreement with the work of the other. When appropriate, both Registrants shall investigate and attempt to resolve the disagreement collaboratively. The notified Registrant is required to respond in a timely manner to the Registrant giving notice.
- (i) A Registrant shall not act in a manner or engage in a practice that brings discredit on the honor or dignity of the profession of engineering or land surveying.

(2) Competency

A Registrant shall perform services only in the area of his or her competence.

- (a) A Registrant shall practice engineering or land surveying only in areas of competence for which the Registrant is qualified by education or experience.

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- (b) A Registrant may accept work outside of his or her Licensed Branch of practice only to the extent that such services are restricted to areas of expertise for which the Registrant is qualified by education or experience to perform.
- (c) A Registrant shall not take responsibility for work the Registrant is not competent by education or experience to perform, even if such work generally falls within a Branch in which said Registrant is registered.
- (d) In the event that a Registrant practices outside his or her Licensed Branch of practice, the Registrant must be prepared to demonstrate to the Board's satisfaction his or her competence in that additional Branch of practice. Demonstration of competence to the Board shall include at a minimum records of specific education and experience obtained by the Registrant in that additional Branch of practice.
- (e) A Registrant may affix the Registrant's Signature or seal only on Instruments of Service prepared by the Registrant or prepared under the Registrant's Direct Charge and Supervision.
- (f) A Registrant shall stay current with theoretical, technological and practical developments within the Registrant's profession and maintain personal competency for acceptable practice throughout the Registrant's career.

(3) Public Statements

A Registrant shall issue public statements only in an objective and truthful manner.

- (a) A Registrant shall issue no professional testimony that is inspired or paid for by interested parties unless the Registrant explicitly identifies the interested parties on whose behalf the Registrant is speaking and reveals any interest such parties have in the matters.
- (b) A Registrant shall not attempt to injure, maliciously or falsely, the professional reputation, prospects, practice, or employment of other Registrants.

(4) Conflicts of Interest

A Registrant shall act professionally for each employer or client as a faithful agent and shall avoid conflicts of interest, or the appearance of conflicts of interests.

- (a) A Registrant shall make full prior disclosures to the Registrant's employers or clients of potential conflicts of interest or other circumstances which could influence or appear to influence the Registrant's judgment or the quality of their services. The Registrant bears responsibility for maintaining documentation of compliance with this requirement.
- (b) A Registrant shall not accept compensation, financial or otherwise, from more than one party for concurrent services on the same project unless the circumstances are fully disclosed in writing to all interested parties.
- (c) A Registrant shall not solicit or accept compensation, financial or otherwise, directly or indirectly, from contractors, vendors or other parties in connection with work for employers or clients for which the Registrant is responsible.

(5) Solicitation and Compensation

A Registrant shall avoid improper solicitation of professional employment.

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- (a) A Registrant shall not falsify or permit misrepresentation of the Registrant's own academic or professional qualifications, or those of the Registrant's associates.
- (b) A Registrant may be disciplined for being found in violation of the state ethics law by the State Ethics Commission.
- (c) A Registrant may request, propose or accept contracts for professional services on a contingent basis only under circumstances in which the Registrant's professional judgment would not be compromised and the contingency agreement is in writing and complies with 250 CMR 4.02(4)(e).
- (d) Regardless of the negotiated compensation, the Registrant must provide services that comply with accepted professional standards.
- (e) A Registrant shall establish clear and unambiguous contractual arrangements with clients. At a minimum, contractual arrangements must state a description of the proposed work, fees and expenses to be paid, and schedule for completion.

4.03. Professional Seal

- (1) Each person registered as a professional engineer or professional land surveyor in the Commonwealth shall use a professional seal that conforms to the designs approved and made available by the Board. The seal shall contain the following words: "Commonwealth of Massachusetts", the Registrant's name, the Registrant's registration number, and the words "Professional Engineer" or the words "Professional Land Surveyor."
- (2) The seal must be a symbol or image in the form of a rubber stamp, embossed seal or digitized seal (computer generated image), or other form approved by the Board. The outside diameter of the depicted image must be approximately one and one half inches.
- (3) A Registrant shall affix his or her seal only to Instruments of Service produced by the Registrant personally or under the Registrant's Direct Charge and Supervision, except as provided in 4.03(4).
- (4) A Registrant may review and adopt work started by or under another Registrant's Direct Charge and Supervision provided the adopting Registrant has performed a detailed and thoroughly documented review and will assume complete responsibility for the work of that previous Registrant.
- (5) Under no circumstances shall a Registrant adopt the Work Products developed by unregistered persons who themselves were not working under the Direct Charge and Supervision of a Registrant.
- (6) Any document bearing the Registrant's seal must also be appropriately dated and signed with either a legible hand written Signature adjacent to (not obscuring) the seal or a properly encrypted digital Signature, in compliance with these regulations.
- (7) The Registrant shall not affix his or her seal to stickers, decals, cards, stationery, advertising, or any other such material.
- (8) The Registrant must take reasonable steps to prevent the Registrant's seal or digital Signature encryption key from being lost, stolen or out of the Registrant's personal possession or control.

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- (9) The Registrant shall not allow another person to use the Registrant's seal or digital Signature encryption key.
- (10) A Registrant whose License has lapsed shall not use his or her professional seal.
- (11) When a digital Signature is applied to an Instrument of Service, it must have an electronic authentication process attached to it that is uniquely associated with the Registrant, can be authenticated by the recipient, and is uniquely linked to the underlying documents in a manner that will invalidate the digital Signature if any part of the document is changed.
- (12) A Registrant is responsible for all work on any plan that bears the Registrant's professional seal unless the Registrant expressly and properly limits the Registrant's responsibility as set forth in 250 CMR 4.03(13).
- (13) If a Registrant does not take responsibility for all of the work on an Instrument of Service, the Registrant shall add any suitable comments near, but not through the seal to limit their responsibility. Such comments might limit responsibility to such things as electrical design, structural design, property boundaries, a specified portion of the document, or a specified change.
- (14) A Registrant may assume responsibility for coordination of an entire project and sign and seal the instruments of service for the entire project, provided that the instruments of service for each technical segment are signed and sealed by the qualified Registrant who either prepared or directly supervised the preparation of said technical segment.
- (15) A Registrant shall sign, date and seal instruments of service prepared by the Registrant, when those documents are filed with public authorities. If the Instrument of Service is a set of printed plans, each sheet must be individually signed and sealed and appropriately dated, unless otherwise authorized by statute.

4.04. Direct Charge and Supervision

A Registrant must exercise Direct Charge and Supervision over those persons assisting in the preparation of instruments of service. Direct Charge and Supervision requires at a minimum that :

- (1) the Registrant exercised unambiguous decision-making authority with respect to the preparation of the instruments of service he or she sealed and signed, without interference or undue influence from any other individual or entity;
- (2) the persons assisting in the preparation of the instruments of service were subordinates reporting directly to the Registrant rather than through some other person or entity capable of subverting the Registrant's direction;
- (3) the Registrant had the freedom and authority to assign personnel, and to employ appropriate technologies and equipment for the preparation of instruments of service;
- (4) the Registrant exercised due care in assigning tasks to persons assisting in the preparation of instruments of service based upon the Registrant's knowledge of each person's expertise, knowledge and skill levels;
- (5) the Registrant has a verifiable written record establishing that contributing work provided by unlicensed individuals was subject to regular and continuing Direct Charge and Supervision throughout the development process;
- (6) the work performed by unlicensed individuals does not include approval of final designs or decisions; and

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- (7) the persons assisting the Registrant preparing the Instruments of Service had continuous access to and guidance from the Registrant throughout the development process.

4.05. Business Entities

A Business Entity may provide or offer to provide engineering or surveying services only if a registered engineer or land surveyor has management responsibility for that part of the business. In this context, such Registrant is referred to as the Registrant-In-Charge.

The relationship between the Business Entity and the Registrant-In-Charge must be characterized by the following:

- (1) the Registrant-In-Charge or a Registrant in his or her charge exercises Direct Charge and Supervision as set forth by 250 CMR 4.04; and
- (2) the Registrant-In-Charge is an active participant in the contracting, reporting, publishing, scheduling, etc. of professional services being offered by the Business Entity.

4.06. License Renewal

A Registrant is responsible for maintaining his or her License to practice in good standing by renewing the License as required by M.G.L. c. 112, § 81N and 250 CMR 4.06, by providing all information required by the Board, and by maintaining correct ethical, professional and business practices. This responsibility cannot be delegated to others. Practice under a License that has not been properly renewed is considered the unlicensed Practice of Engineering or Practice of Land surveying and may result in disciplinary action.

- (1) A License is valid for a period ending June 30th of the next even-numbered year and requires renewal at that time. A License that is not renewed on or before the June 30th expiration date shall lapse.
- (2) A Registrant shall apply for renewal of his or her License on or before the date the License will lapse. To apply for renewal of a License, a Registrant shall submit to the Board a completed License renewal application on a form prescribed by the Board and shall pay such fees for renewal of that License as may be established by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B.
- (3) As a condition for renewal of his or her License, a Registrant must submit to the Board satisfactory proof that the Registrant is in compliance with statutory and regulatory requirements specified by the Board, including but not limited to, M.G.L. c. 62C, § 47A and § 49A, and 250 CMR 4.09 Professional and Moral Character.
- (4) It is the responsibility of each Registrant to notify the Board of any changes in his or her address of record as well as to know the status of his or her License.
- (5) Failure to receive renewal notification from the Board does not excuse the Registrant from responsibility for timely renewal.
- (6) A Registrant with a lapsed License is no longer permitted to practice engineering or land surveying in the Commonwealth and the use of the Registrant's seal is prohibited.
- (7) A License may be renewed within two years of lapsing provided a renewal form is submitted along with the required fees, including the late fee.

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- (8) A License cannot be renewed if it has lapsed for more than two years. After the first two years, the former Registrant must file for reinstatement pursuant to 250 CMR 4.07.

4.07. Reinstatement of Lapsed License

An individual whose License has lapsed for more than two years may apply for reinstatement of his or her License by:

- (1) Submitting a properly completed Reinstatement Application Form with the applicable filing fee;
- (2) Demonstrating to the Board's satisfaction that nothing has occurred during the lapsed period which would justify the revocation of the Registrant's License under the provisions of M.G.L. c. 112, § 81P or any other applicable law;
- (3) Demonstrating to the Board's satisfaction that the Registrant's qualifications to practice have not diminished since having been registered;
- (4) Demonstrating to the Board's satisfaction that the Registrant meets the current requirements for registration, which may include an oral interview/exam, submission of documentation, and the required written examinations; and
- (5) Paying applicable late fees and renewal fees for missed licensing cycles as required by the Director of the Division of Professional Licensure.

4.08. Use of Title Engineer or Land Surveyor

No person, other than a Registrant holding a current License to practice in the applicable profession, shall advertise or hold themselves out as either a Professional Engineer or a Professional Land Surveyor, or use any other title to imply that they are qualified to practice engineering or land surveying in the Commonwealth, or in any other way hold themselves out as able to perform any of the recognized Branches of engineering or land surveying.

This section shall not prohibit a person who is not registered/Licensed in Massachusetts but who holds a current License to practice in another state or Jurisdiction and who declares or otherwise qualifies his or her title in a manner that does not imply that the person is qualified to practice in Massachusetts (*e.g., "Professional Engineer, Kansas" would be acceptable*).

4.09. Professional and Moral Character

- (1) A Registrant shall provide the Board with written notification of any disciplinary action or restriction on practice imposed against any professional License, registration, certificate, or permit held by the Registrant by the applicable governmental authority of any state, territory or political subdivision of the United States or any foreign jurisdiction. Such notice must be received by the Board within thirty days of the effective date of said discipline or restriction.
- (2) A Registrant shall provide the Board with written notification of the Registrant's conviction of any crime, including any misdemeanor or felony, other than a routine traffic violation, made by a court or any other adverse action by any state or federal agency. Such notice must be received by the Board within thirty days of said conviction or adverse action. Records of compliance with 250 CMR 4.09(2) shall be exhibited to the Board upon demand.

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- (3) For the purposes of 250 CMR 4.09(2), the term “conviction” means any of the following:
- (a) a final judgment entered after a jury verdict of guilty or a judicial finding of guilty;
 - (b) a plea of guilty;
 - (c) a plea of no lo contendere (no contest); or
 - (d) any other plea or finding which is treated by the court as a plea or finding of guilty.

The standards in 250 CMR 4.09(3)(a) through (d) shall apply regardless of the law of the jurisdiction in which the disposition occurred.

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250 CMR 5.00 ENFORCEMENT and DISCIPLINE

- 5.01. Authority
- 5.02. Basis for Discipline
- 5.03. Summary Suspension
- 5.04. Investigatory Process
- 5.05. Disciplinary Process
- 5.06. Appeal Process
- 5.07. Reinstatement Following Disciplinary Action
- 5.08. Practice After License Expiration, Suspension, Revocation or Cancellation
- 5.09. Unauthorized Practice

5.01. Authority

Pursuant to M.G.L. c. 112, §§ 61-65E and 81D-81T, the Board has authority to discipline any individual improperly practicing or offering to practice Engineering or Land Surveying.

This authority applies to anyone who is currently Licensed to practice; who has a suspended, revoked, or lapsed License; or who has never been Licensed.

Disciplinary actions may include but are not limited to suspension, revocation, probation, fine, reprimand, denial of renewals, injunctive or declaratory relief and civil administrative penalties. Additional penalties, including criminal penalties, may apply for unlicensed or unauthorized practice under M.G.L. c. 112, §§ 65, 65A.

5.02. Basis for Discipline

- (1) The Board may initiate disciplinary action against a Registrant or an unlicensed individual or entity on its own or upon written complaint of any individual who alleges violation of any law or regulation within the Board's jurisdiction, including but not limited to, M.G.L. c. 112, §§ 61-65E, 81D-81T and Title 250 of the Code of Massachusetts Regulations.
- (2) The Board may, after a consent agreement between the parties or an opportunity for adjudicatory proceedings conducted pursuant to M.G.L. c. 30A, discipline a Registrant if it is determined that the Registrant has engaged in, without limitation to, the following types of conduct:
 - (a) misconduct or any crime involving moral turpitude; fraud; deceit; incompetence; negligence; or exceeding the authorized scope of their registration;
 - (b) practice while incapacitated by reason such as mental illness, dementia, alcohol or drugs;
 - (c) committing fraud or deceit in obtaining or renewing a registration or License;
 - (d) affixing one's Signature or seal to plans, drawings, specifications or other instruments of service which have not been prepared by them, or under their Direct Charge and Supervision;

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- (e) permitting one's name to be used for the purpose of assisting any individual to evade the provisions of the Board's laws, rules and regulations;
 - (f) violating any law, rule or regulation of the Board;
 - (g) having been convicted of a criminal offense which is reasonably related to the Practice of Engineering or Practice of Land Surveying;
 - (h) knowingly permitted, aided or abetted an unauthorized individual in performing activities requiring registration;
 - (i) continuing to practice during periods of suspension, revocation, cancellation or lapsed License;
 - (j) having a license or registration to practice issued by another Jurisdiction and having been disciplined by that Jurisdiction;
 - (k) failure to cooperate with the Board in response to a complaint or inquiry against individuals practicing engineering or surveying;
 - (l) providing false testimony or information to the Board;
 - (m) knowingly making false statements or signing false statements, certifications, or affidavits in connection with the Practice of Engineering or Practice of Land Surveying; and
 - (n) engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
- (3) The Board may assess and collect civil administrative penalties from an individual who, without holding a required License, engages in the Practice of Engineering or Practice of Land Surveying, per M.G.L. c. 112, § 65A.
- (4) The Board may assess and collect civil administrative penalties from business entities offering engineering or land surveying services that are not in compliance with the provisions of M.G.L. c. 112, § 81R(f).

5.03. Summary Suspensions

In accordance with M.G.L. c.112, § 65B, the Board may summarily suspend or refuse to renew the Registrant's License if the Board determines that the Registrant's continued practice poses an immediate and serious threat to the public health, safety or welfare. In such event, the Board shall follow procedures set forth in M.G.L. c. 112, § 65B.

5.04. Investigatory Process

Complaints filed against individuals who come under the Board's jurisdiction shall be subject to the following process:

- (1) The Board Chair may appoint a complaint investigative committee to assist the investigative process and advise the Division's Office of Investigations.
- (2) Complaints filed with the Division may be evaluated by the complaint investigative committee to determine if further investigation is warranted.

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- (3) The complaint investigative committee may schedule an informal conference with the complainant, the respondent, their counsel or any other individual to determine if the case should be dismissed, further investigation is required, or an Order to Show Cause is warranted.
- (4) After review, the complaint investigative committee will recommend an appropriate course of action to the full Board. The Board shall then take appropriate action under the provisions of the statutes.
- (5) In instances where the evidence indicates an immediate and serious threat to the public, the Board may issue a summary suspension order in accordance with M.G.L. c.112, § 65B and 250 CMR 5.03.
- (6) When an Order to Show Cause is issued by the Board, subsequent proceedings shall be in accordance with the provisions of M.G.L. c. 30A.
- (7) The investigatory process may result in dismissal, formal adjudicatory proceedings under the M.G.L. c. 30A process, or a negotiated settlement.
- (8) A dismissed complaint does not constitute disciplinary action.
- (9) Investigative and settlement conferences may be held in closed session in accordance with M.G.L. c.112, § 65C.

5.05. Disciplinary Process

- (1) All complaints, unless dismissed, shall be heard by the Board or its designated agent in accordance with M.G.L. c. 30A and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.
- (2) The Board or its designated agent(s) may approve a negotiated agreement with the respondent.
- (3) As part of a consent agreement or following an adjudicatory proceeding conducted pursuant to M.G.L. c. 30A, a majority of the Board's members may vote to impose penalties, including but not limited to any of the following:
 - (a) suspend, revoke, cancel, decline to renew, or place on probation a Registrant's License;
 - (b) reprimand or censure a Registrant;
 - (c) assess civil administrative penalties under the provisions of M.G.L. c. 112, §§ 61 and 65A on Registrants and unlicensed individuals;
 - (d) require a Registrant to complete additional education, training, or testing as a condition of retention or future consideration of reinstatement of Registrant's License;
 - (e) require a Registrant to practice under appropriate supervision for a period of time as determined by the Board as a condition of retention or future consideration of reinstatement of their License;
 - (f) require a Registrant to participate in an alcohol or drug rehabilitation program as a condition of retention or future consideration of reinstatement of their License;

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- (g) require a Registrant with mental health or dementia issues to provide the Board with a medical evaluation;
 - (h) require an unlicensed individual to cease and desist all Board regulated activities; and
 - (i) limit the Registrant's scope of practice .
- (4) The Board, in determining appropriate sanctions, shall consider factors, including but not limited to, the following:
- (a) Seriousness of the offense;
 - (b) Prior disciplinary record;
 - (c) Acknowledgment of wrongdoing;
 - (d) Willingness to cooperate with the Board;
 - (e) Consequences to public health, safety or welfare; and
 - (f) Other mitigating or aggravating circumstances.

5.06. Appeal Process

Any individual aggrieved by an action of the Board to suspend or revoke a License or certificate, or to refuse to grant a registration or a Temporary Permit for any cause may appeal such action as provided under M.G. L. c. 30A; M.G. L. c. 112, s. 64; and M.G.L. c. 112, § 81S.

5.07. Reinstatement Following Disciplinary Action

The Board, for any reason which it may deem sufficient, may reinstate a revoked, voluntarily surrendered or suspended License of any Registrant. A Registrant seeking reinstatement of a revoked, surrendered or suspended License may be required to submit appropriate applications, applicable fees, and meet any such other requirements set by the Board prior to consideration by the Board.

5.08. Practice After License Expiration, Suspension, Revocation or Cancellation

An individual shall not practice or offer to practice engineering or land surveying in the Commonwealth while his or her License is expired, suspended, revoked or otherwise cancelled.

An individual who practices or offers to practice engineering or land surveying in the Commonwealth during a period in which said individual's License to practice is expired, suspended, revoked or otherwise cancelled may be subject to penalties provided for by law, including but not limited to pursuant to M.G.L. c. 112, §§ 65, 65A and may also be subject to the imposition of discipline by the Board, including but not limited to reprimand, probation, suspension and revocation.

5.09. Unauthorized Practice

The practice or offer to practice engineering or land surveying in the Commonwealth by any individual who was not currently registered as a Professional Engineer or Professional Land Surveyor by the Commonwealth or who was not first registered in some other recognized

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Jurisdiction and who holds a current Temporary Permit to practice in the Commonwealth shall be considered unauthorized practice.

The production of engineering or land surveying instruments of service by any unlicensed individual who produces such products and who is not in compliance with the provisions of 250 CMR 4.04 "Direct Charge and Supervision", shall be considered unauthorized practice.

Those individuals engaging in unauthorized practice shall be subject to assessment and collection of a civil administrative financial penalties by the Board as set forth in M.G.L. c. 112, § 65A and other applicable penalties as otherwise provided by law.

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****Proposed Regulations: Not currently in effect ****

250 CMR 6.00 LAND SURVEYING PROCEDURES AND STANDARDS

6.01. Elements Common to All Surveys

6.02. Surveys of Lines Affecting Property Rights

All land surveying work is considered work of a professional nature and shall be performed in conformance with these procedures and standards, the provisions of 250 CMR 4.00 and all other applicable laws and regulations.

The provisions of 250 CMR 6.00 shall be the minimum required for all surveys and shall take precedence over the less restrictive standards of other authorities or sources and all surveyors shall comply with these provisions.

6.01. Elements Common to All Surveys

This section describes requirements common to all types of surveys, including but not limited to such common surveys as Boundary, topographic, construction layout, title insurance, and mortgage surveys.

(1) Presumptions

- (a) When engaged to provide Work Products, surveyors are presumed to be familiar with any other commonly accepted standards of care (e.g., National Map Accuracy Standards, Land Title Survey Standards, land court standards) associated with that type of work and the surveyor's Work Products shall comply with those additional standards to the extent that such standards do not conflict with the provisions of 250 CMR.
- (b) When integrating mapping products provided by others, such as photogrammetric mapping, LiDAR mapping, geographic information systems data layers and hydrographic mapping, the surveyor is presumed to have exercised due care in evaluating the provider's qualifications, establishing the product's conformance with mapping standards, and performing sufficient independent conformance checks.

(2) Measurements

- (a) Linear measurements shall be expressed in terms of the US Survey Foot or the Meter.
- (b) The intended purpose of a Work Product shall dictate the accuracy and precision of the field measurements, the measuring equipment used and the manner of its use.
- (c) Appropriate corrections shall be applied to measurements to minimize or eliminate systematic errors.
- (d) Redundant observations shall be used to analyze Control measurements and when practical other measurement data, to assess the magnitude of errors associated with those measurements and to determine if the distributions of those errors are within acceptable tolerances.

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- (e) After elimination of blunders and a determination that the remaining errors are within acceptable tolerances, the survey Control shall be appropriately adjusted such that it conforms to known geometric conditions or other known constraints.
 - (f) For large and/or complex Control networks, the preferred method of analysis and adjustment shall be the statistically rigorous method of least-squares.
- (3) Calibration
 - (a) Measuring equipment must be calibrated to insure it continues to meet or exceed manufacturers' specifications and is capable of producing results in conformance with these standards.
 - (b) Calibrations must predate and postdate each survey, the timing of which must be sufficient to demonstrate that the equipment was capable of performing up to these standards and manufacturers' specifications at the time the survey was performed.
 - (c) Appropriate calibration methods shall be employed that include the personnel who normally use the equipment and the accessory devices normally used with the equipment. These methods shall employ redundant measurement techniques capable of developing statistical tests, rather than simple direct comparisons.
 - (d) Records of compliance with these provisions shall be exhibited to the Board upon demand.
- (4) Horizontal and Vertical Datums
 - (a) Bearings, courses and directions shall be tied to some known meridian. When magnetic meridians are used, the date and location where the meridian was observed must be provided.
 - (b) Horizontal coordinates, when provided, must be referenced to permanent monuments or a known and reproducible horizontal datum. The preferred horizontal datum is the Massachusetts Coordinate System.
 - (c) Elevations, when provided, shall be referenced to a known vertical datum or to an assumed datum for which two bench marks have been established. The preferred vertical datum is the current national vertical datum.
 - (d) Horizontal and vertical Control surveys for construction layout work shall be tied to Boundary, easement and Regulatory Lines affecting the location of existing or proposed Fixed-Works.
- (5) Work Products

All deliverable Work Products depicting the survey shall contain the following types of information, except when the only Work Product delivered is on-the-ground markings:

 - (a) The client's name, the record owner's name, and location of the surveyed premises.
 - (b) The surveyor's full name, firm name, business address, stamp, Signature, the date of the Work Product and, when appropriate, a revision date.

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- (c) Measured quantities shall be shown to a number of significant digits consistent with the accuracy and procedures used to obtain the measurements and appropriate for the item being described.
 - (d) The Work Product shall identify the survey's meridian by symbol, note its origin and orient the Work Product such that north is generally pointing in an upward direction.
 - (e) The Work Product shall provide a ratio scale and a graphic bar scale in both meters and feet for the survey.
 - (f) When surveys are tied to an existing coordinate system, provide the basis for the ties and, if applicable, the combined scale factor needed to convert the reported distances back to ground measurements.
 - (g) Identify sources and techniques used to develop the mapping information shown, such as contours, site features, utilities, floodplains, wetlands, etc.
 - (h) For information obtained from a specific data layer in a geographic information system, land information system or mapping system, the survey Work Product shall identify the source and positional accuracy of features and/or attributes obtained from said layer.
 - (i) The standard for positional information shown on a survey or other Work Product shall meet the appropriate national map accuracy standard for the compilation scale of the Work Product.
- (6) Archival Requirements
- The surveyor shall maintain supporting documentation sufficient to demonstrate compliance with these regulations and to substantiate their findings in response to lawful inquiries long enough to meet applicable legal and regulatory requirements.

6.02. Surveys of Lines Affecting Property Rights

This section describes those additional requirements applicable to all Work Products that delineate lines affecting property rights such as Boundary lines, lease lines, easement lines, Regulatory Lines, including the horizontal and vertical Control necessary to establish such lines.

Additionally, these requirements shall apply to the marking or remarking of said lines on-the-ground and those Work Products that relate natural or manmade features to such lines.

- (1) Precedence
 - To the extent that these standards may reiterate key aspects of the Laws of Evidence, the intent of these standards is to emphasize those aspects of the law, not to create a new standard that would modify or supersede the Laws of Evidence.
- (2) Presumptions
 - (a) Surveyors are presumed to know the Laws of Evidence pertaining to the location of lines and are presumed to follow the Laws of Evidence when reproducing lines or creating new lines.

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- (b) Based upon equivalent bodies of Evidence and equivalent treatment of that Evidence, that Evidence should lead each surveyor to substantially equivalent determinations.
 - (c) When a surveyor agrees to locate a written conveyance, the surveyor also agrees to locate the conveyance in accordance with the laws regulating the interpretations of written conveyances.
 - (d) When new lines are being defined, those lines are presumed to be tied to Original Lines and/or original monuments authenticated in accordance with the Laws of Evidence.
 - (e) Historical documents that created Original Lines are presumed to have been based upon a survey, whether the survey was of a professional nature or was prepared by a lay person.
 - (f) When the development of a Work Product is based upon a prior survey, the resulting Work Product is presumed to comply with the provisions of these standards, regardless of the standard of care associated with the prior survey.
- (3) Research
Record Evidence of public sources and known private sources shall be examined to sufficient depth and scope such that the surveyor is convinced:
 - (a) The current description of the subject property and all abutting properties have been identified and acquired.
 - (b) The plats and surveys describing the subject property and abutting properties have been identified and acquired.
 - (c) The Operative Document that created each line or point on the subject property, or the best available Evidence of that document, has been identified and acquired.
 - (d) Conflicting descriptions describing the common lines of the subject property and the abutting property have been identified and investigated.
 - (e) Scrivener's errors describing the subject property and the abutting properties have been identified and investigated.
 - (f) Appurtenances and/or encumbrances have been investigated when discovered through normal research procedures.
 - (g) The source and validity of Regulatory Lines affecting the subject property have been investigated, when applicable.
- (4) Fieldwork
Physical Evidence shall be investigated to a sufficient depth and scope such that the surveyor is convinced:
 - (a) The physical Evidence necessary to base a conclusion has been identified and located.
 - (b) Any recognizable Evidence of occupation (e.g., fences) has been identified and located at intervals sufficient to delineate the directions and distances of the primary lines and angles.

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- (c) The visible appurtenances and encumbrances to the subject property have been identified and located.
 - (d) Apparent encroachments onto the subject property or onto adjacent properties have been identified and located.
 - (e) Natural and manmade features crossing, near or within the subject property, that help identify the surveyed lines, have been identified and located.
- (5) Computations and Analysis

In performing the analysis of the record and physical Evidence, the surveyor shall:

 - (a) Make interpretations of the record and physical Evidence and draw conclusions based upon the Laws of Evidence.
 - (b) Evaluate and use the Evidence based upon the original creating units of measurement, not in terms of modern units of measurements, unless a contrary intent is indicated by the Laws of Evidence.
 - (c) Assign no more weight or dignity to one recited point of a prior survey than any other recited point, unless a contrary intent is indicated by the survey.
 - (d) Test the mathematical integrity of record Evidence and use the results in a manner consistent with the Laws of Evidence.
 - (e) Use computer software products responsibly by carefully examining output and making appropriate checks.
 - (f) Consider parol Evidence whenever the collected Evidence is insufficient to draw a conclusion and, when relied upon, consider obtaining affidavits.
- (6) Monumentation

Lines shall be marked on-the-ground such that, in combination with the monuments recovered:

 - (a) Sufficient monuments exist to enable future surveyors to reliably reproduce the lines as surveyed, even if some of the referenced monuments are compromised over time. Referencing coordinates are not a substitute for setting physical monuments.
 - (b) The size, composition and material of newly set monuments shall:
 - 1. Be sufficient to minimize the likelihood of disturbance due to acts by mankind or natural causes;
 - 2. Be stable enough to adequately meet the accuracy standards of the survey;
 - 3. Have a life expectancy of 25 years or more under normal circumstances;
 - 4. Be detectable using commonly employed surveying techniques; and
 - 5. Be identifiable, with reasonable certainty, as having been set by the surveyor.
- (7) Work Products

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In addition to those elements common to all survey Work Products noted in 250 CMR Section 6.01, the following additional requirements are applicable to all Work Products classified under 205 CMR Section 6.02:

- (a) Identify the current record owner of the subject parcel and all abutting parcels thereto by title reference.
- (b) Express course and distance descriptions used to delineate lines to the nearest second of arc and hundredth of a foot (or millimeter) to minimize round-off errors and allow integrity tests to be performed, irrespective of the type of Evidence being delineated, e.g., stone fences, wire fences, building edges, tie courses.
- (c) Report the area of each surveyed parcel in appropriate units of measure and number of significant digits to express the value accurately.
- (d) Reference other pertinent surveys of record describing the subject premises and any abutting premises.
- (e) Provide references to the key Evidence used to base conclusions.
- (f) Delineate any Evidence of occupation that is material to the owner's title.
- (g) Delineate visible Evidence of apparent appurtenances and encumbrances.
- (h) Delineate visible Evidence of apparent encroachments by abutters onto the subject property and by the owner of the subject property onto adjoining properties.
- (i) Clearly distinguish between monuments found and monuments set along with their physical composition and description, which includes their mathematical relationship to the property.
- (j) Provide sufficient course and distance redundancy to allow testing for mathematical correctness for each parcel contained within the subject property.
- (k) Report the actual observed measurements (either *directly and/or indirectly*) that describe the Evidence appearing on the survey and parenthetically show observed measurement's relationship to the record measurements, when appropriate.
- (l) Provide a vicinity map or reference the subject property to well-known geographic features, such as street intersections, rivers, or railroads.
- (m) Show the location of objects (e.g., streams, fences, structures) that are informative as to the general location of the boundaries of the property.

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250 CMR 7.00 THE BOARD OF REGISTRATION

- 7.01. Organization of the Board
- 7.02. Proceedings
- 7.03. Petitions for Adoption, Amendment or Repeal or Regulations
- 7.04. Emergency Regulations
- 7.05. Advisory Rulings
- 7.06. Policies

7.01. Organization of the Board

The organization of the Board is governed by the provisions of M.G.L. c. 13, § 45.

7.02. Proceedings

(1) Meetings

- (a) The Board shall hold at least two regular meetings each year, and may hold special meetings at such times and places as the Board may decide.
- (b) Notice of regular and special meeting dates, times and places must be given to the extent required by M.G.L. c 30A, §§ 18 through 25.
- (c) All meetings of the Board are open to the public to the extent required by M.G.L. c. 30A, §§ 18 through 25.

(2) Quorum

At all meetings of the Board, the number of board members needed to constitute a quorum shall be determined by applicable law.

(3) Voting

All members of the Board are entitled to vote and to make or to second motions. A majority vote of those present is required to pass a motion. The chairman shall vote as a member of the Board.

7.03. Petitions for Adoption, Amendment or Repeal or Regulations

- (1) Any interested person or his attorney may at any time petition the Board to adopt, amend, or repeal any regulation. The petition shall be addressed to the Board and sent by mail or delivered in person during normal business hours. All petitions shall be signed by the petitioner or his attorney, contain his address or the address of his attorney, and set forth clearly and concisely the text of the proposed regulation. The petition may be accompanied by any supporting data, views or arguments.
- (2) Upon receipt of a petition for the adoption, amendment or repeal of a regulation or upon written recommendation by a member of the Board that a regulation be adopted, amended or repealed, the Board shall consider the petition or recommendation, thereupon, determine whether to schedule the petition or recommendation for further proceedings in accordance with 250 CMR 7.00. If the regulation has been presented to the Board by petition, the Board shall notify the petitioner of the Board's action.

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- (3) During the meeting when the petition or recommendation is considered, the Board may, but shall not be required to, entertain comments or questions from members of the public in attendance. The chairman or other presiding officer may at any time terminate participation by the public.

7.04. Emergency Regulations

If the Board finds that the immediate adoption, amendment or repeal of a regulation is necessary for the public health, safety or general welfare, and that observance of requirements of notice and public hearing would be contrary to the public interest, the Board may dispense with such requirements and adopt the regulation as an emergency regulation in accordance with M.G.L. c. 30A, § 2.

7.05. Advisory Rulings

Any interested person or his attorney may at any time request an Advisory Ruling with respect to the applicability to any person, property or factual situation of any statute or regulation enforced or administered by the Board.

The request shall be submitted in writing to the Board. All requests shall be signed by the person making it or their attorney, contain their address or the address of their attorney, and state clearly and concisely the substance or nature of the request. The request may be accompanied by any supporting data, views or arguments.

7.06. Policies

The Board may draft and adopt policies as an internal management tool for formulating decisions that relate to the Practice of Engineering and Practice of Land Surveying. As such, these policies do not have the full force and effect of law, but rather provide guidance for Registrants.